

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number and address): Robert David Baker, Esq. (87314) Robert David Baker, Inc. 80 South White Road  San Jose, CA 95127 TELEPHONE NO.: (408) 251-3400      FAX NO.: (408) 251-3401 E-MAIL ADDRESS: rbaker@rdblaw.net ATTORNEY FOR (Name): Laura Arguello-Gonzalez <input checked="" type="checkbox"/> ATTORNEY FOR <input checked="" type="checkbox"/> JUDGMENT CREDITOR <input type="checkbox"/> ASSIGNEE OF RECORD	<b>FOR COURT USE ONLY</b>
<b>UNITED STATES DISTRICT COURT, NORTHERN DISTRICT OF CALIFORNIA</b> STREET ADDRESS: 280 South First Street MAILING ADDRESS: CITY AND ZIP CODE: San Jose, CA 95113 BRANCH NAME: San Jose	
PLAINTIFF: <u>Laura Arguello-Gonzalez</u> DEFENDANT: <u>Lupita's Restaurant, et al.</u>	
<b>WRIT OF</b> <input checked="" type="checkbox"/> EXECUTION (Money Judgment) <input type="checkbox"/> POSSESSION OF <input type="checkbox"/> Personal Property <input type="checkbox"/> SALE <input type="checkbox"/> Real Property	CASE NUMBER: C14-3099 BLF

1. To the Sheriff or Marshal of the County of: Santa Clara

You are directed to enforce the judgment described below with daily interest and your costs as provided by law.

2. To any registered process server: You are authorized to serve this writ only in accord with CCP 699.080 or CCP 715.040.

3. (Name): Laura Arguello Gonzalez

is the ☒ judgment creditor    ☐ assignee of record    whose address is shown on this form above the court's name.

4. Judgment debtor (name, type of legal entity stated in judgment if not a natural person, and last known address):

Tacos Al Carbon  
 1733 Story Road  
 San Jose, CA 95122

9. ☐ See next page for information on real or personal property to be delivered under a writ of possession or sold under a writ of sale.

10. ☐ This writ is issued on a sister-state judgment.

11. Total judgment .....	\$ 26,561.53
12. Costs after judgment (per filed order or memo CCP 685.090) .....	\$ 240.00
13. Subtotal (add 11 and 12) .....	\$ 26,801.53
14. Credits .....	\$
15. Subtotal (subtract 14 from 13) .....	\$ 26,801.53
16. Interest after judgment (per filed affidavit CCP 685.050) (not on GC 6103.5 fees) ..	\$ 4,648.27
17. Fee for issuance of writ .....	\$ 25.00
18. Total (add 15, 16, and 17) .....	\$ 31,474.80

19. Levying officer:

(a) Add daily interest from date of writ

(at the legal rate on 15) (not on GC 6103.5 fees) of 10% ..... \$ 7.28

(b) Pay directly to court costs included in

11 and 17 (GC 6103.5, 68637; CCP 699.520(i)) ..... \$

20. ☐ The amounts called for in items 11-19 are different for each debtor. These amounts are stated for each debtor on Attachment 20.

☐ Additional judgment debtors on next page

5. Judgment entered on (date): July 22, 2015

6. ☐ Judgment renewed on (dates):

7. Notice of sale under this writ

a. ☒ has not been requested.

b. ☐ has been requested (see next page).

8. ☐ Joint debtor information on next page.

[SEAL]

Issued on (date): **APR 25 2017**

Clerk, by

*Stacy Watson*

, Deputy

**NOTICE TO PERSON SERVED: SEE NEXT PAGE FOR IMPORTANT INFORMATION.**

PLAINTIFF:	CASE NUMBER:
DEFENDANT:	C14-3099 BLF

— Items continued from page 1—

21. ☐ Additional judgment debtor (name, type of legal entity stated in judgment if not a natural person, and last known address):

Lupita's Restaurant  
2095 North Capitol Ave.  
San Jose, CA 95132

Berenice Perez-Guizar; Maria Perez Guizar  
3281 Archbury Court  
San Jose, CA 95148

22. ☐ Notice of sale has been requested by (name and address):

23. ☐ Joint debtor was declared bound by the judgment (CCP 989-994)

a. on (date):

b. name, type of legal entity stated in judgment if not a natural person, and last known address of joint debtor:

a. on (date):

b. name, type of legal entity stated in judgment if not a natural person, and last known address of joint debtor:

c. ☐ additional costs against certain joint debtors (itemize):

24. ☐ (Writ of Possession or Writ of Sale) Judgment was entered for the following:

a. ☐ Possession of real property: The complaint was filed on (date):

(Check (1) or (2)):

(1) ☐ The Prejudgment Claim of Right to Possession was served in compliance with CCP 415.46.

The judgment includes all tenants, subtenants, named claimants, and other occupants of the premises.

(2) ☐ The Prejudgment Claim of Right to Possession was NOT served in compliance with CCP 415.46.

(a) \$ was the daily rental value on the date the complaint was filed.

(b) The court will hear objections to enforcement of the judgment under CCP 1174.3 on the following dates (specify):

b. ☐ Possession of personal property.

☐ If delivery cannot be had, then for the value (itemize in 24e) specified in the judgment or supplemental order.

c. ☐ Sale of personal property.

d. ☐ Sale of real property.

e. Description of property:

#### NOTICE TO PERSON SERVED

WRIT OF EXECUTION OR SALE. Your rights and duties are indicated on the accompanying *Notice of Levy* (Form EJ-150).

WRIT OF POSSESSION OF PERSONAL PROPERTY. If the levying officer is not able to take custody of the property, the levying officer will make a demand upon you for the property. If custody is not obtained following demand, the judgment may be enforced as a money judgment for the value of the property specified in the judgment or in a supplemental order.

WRIT OF POSSESSION OF REAL PROPERTY. If the premises are not vacated within five days after the date of service on the occupant or, if service is by posting, within five days after service on you, the levying officer will remove the occupants from the real property and place the judgment creditor in possession of the property. Except for a mobile home, personal property remaining on the premises will be sold or otherwise disposed of in accordance with CCP 1174 unless you or the owner of the property pays the judgment creditor the reasonable cost of storage and takes possession of the personal property not later than 15 days after the time the judgment creditor takes possession of the premises.

► A Claim of Right to Possession form accompanies this writ (unless the Summons was served in compliance with CCP 415.46).

1 **ROBERT DAVID BAKER, INC.**  
2 **Robert David Baker, Esq. (87314)**  
3 **80 South White Road**  
4 **San Jose, CA 95127**  
5 **Telephone: (408) 251-3400**  
6 **Facsimile: (408) 251-3401**  
7 **Email: rbaker@rdblaw.net**

8 **Attorney for Plaintiff**  
9 **LAURA ARGUELLO GONZALEZ**

10 **IN THE UNITED STATES DISTRICT COURT**  
11 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**

12  
13 **LAURA ARGUELLO GONZALEZ,**  
14 **and all employees similarly situated,**

**Case No. CV 14-3099 BLF**

15  
16 **Plaintiff,**

**AFFIDAVIT OF ROBERT DAVID BAKER**

17 **v**

**FOR COSTS AND INTEREST**

18 **LUPITA'S RESTAURANT; TACOS AL**

**[CCP § 685.050]**

19 **CARBON; MARIA PEREZ-GUIZAR;**

20 **BERENICE PEREZ-GUIZAR; DAVID**

21 **GUIZAR**

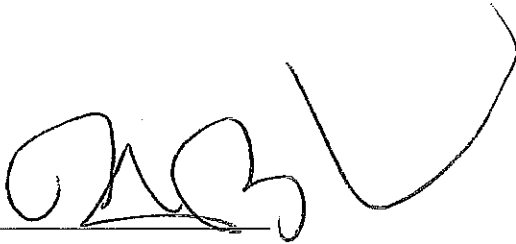
22 **Defendants.**

23  
24  
25 **I, ROBERT DAVID BAKER, DECLARE:**

- 26 1. I am an attorney duly licensed to practice in the state of California;  
27 2. My business address is 80 South White Road, San Jose, CA 95127;

- 1 3. I am the attorney for Laura Arguello Gonzalez, judgment creditor in the above-entitled
- 2 matter;
- 3 4. If called to testify, I could testify of my own personal knowledge as to the following
- 4 facts. As to those facts set forth on information and belief, to the best of my information
- 5 and belief, I believe them to be true;
- 6 5. The principal amount of the original judgment is \$26,561.53 (**Exhibit A**);
- 7 6. Interest on the Judgment at ten percent annually, from the date of the Judgment, July 22,
- 8 2015 to April 22, 2017 is \$4,648.27;
- 9 7. The statutory fee for issuance of the writ is \$25.00;
- 10 8. The statutory cost for the levying officer to perform the keeper duties under the writ for
- 11 eight hours is \$240 (**Exhibit B**).

12 I declare under penalty of perjury the foregoing is true and correct and that this document  
13 is executed on April 18, 2017 at San Jose, California.

14  
15  
16  
17 

18 Robert David Baker, Esq.

# **EXHIBIT A**

**ECF DOCUMENT**

I hereby attest and certify this is a true and correct copy of a document which was electronically filed with the United States District Court for the Northern District of California.

Date Filed:

**DEC 07 2015**

SUSAN Y. SOONG, Clerk

By: *Betty W. Warden*, Deputy Clerk

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

SAN JOSE DIVISION

LAURA ARGUELLO GONZALEZ,

Plaintiff,

v.

LUPITA'S RESTAURANT, et al.,

Defendants.

Case No. 14-cv-03099-BLF

**DEFAULT JUDGMENT**

For the reasons stated in the accompanying Order Granting Plaintiff's Motion for Default Judgment, DEFAULT JUDGMENT IS HEREBY ENTERED in favor of plaintiff Laura Arguello Gonzalez and against defendants Lupita's Restaurant, Tacos Al Carbon, Maria Perez-Guizar and Berenice Perez-Guizar (collectively, "Defendants"), in the total amount of \$26,561.53 in damages and penalties comprising: (1) \$2,912.74 in unpaid back wages under the FLSA, plus \$630.62 in pre-judgment interest; (2) \$2,912.74 in liquidated damages pursuant to 29 U.S.C. § 216(b); and (3) \$16,558.50 under the CLC for Defendants' failure to provide meal and rest breaks, plus \$3,546.93 in pre-judgment interest. Plaintiff shall also recover reasonable attorney's fees and costs in the total amount of \$6,947.55 comprising: (1) \$6,365.05 in reasonable attorney's fees and (2) \$582.50 in costs.

The Clerk of the Court shall close the case file.

**IT IS SO ORDERED.**

Dated: July 22, 2015

*Beth Labson Freeman*  
BETH LABSON FREEMAN  
United States District Judge

# **EXHIBIT B**

<b>PROCESS</b>	<b>FEE</b>	<b>DEPOSIT</b>	<b>GOVT. CODE</b>
<b>EARNINGS WITHHOLDING ORDER</b>	\$35.00		26750
<b>EQUIPMENT - see Attachment or Personal Property</b>			
<b>ESTATE LEVY</b>	\$40.00		26721
<b>EVICTON - Writ of Possession - Real Property</b>			
Posting eviction	\$85.00		26733.5
Reposting eviction	\$40.00		26721
Removing occupants and putting a person in possession	\$60.00		26733.5
Cancellation prior to service of notice to vacate	\$40.00		26736
Cancellation after service of notice to vacate	\$40.00		26736
Failure to take possession after service of notice to vacate	\$40.00		26736
<b>EXECUTE/SERVING ANY OTHER INSTRUMENT</b>	\$40.00		26742
<b>EXECUTION- Writ of (Taking Immediate Possession)</b>	\$100.00	Varies	26722
<b>GARNISHMENTS Attachment or Execution (except wage)</b>	\$40.00		26721
<b>JOINT DEBTOR SUMMONS</b>	\$40.00		26721
<b>JURY SUMMONS for Civil Jury</b>			
12 or Less	\$2.00		26745
Each Additional Juror	\$0.10		26745
<b>KEEPER LEVY (Sheriffs fees.)</b>			
Released at the end of 8 hours	\$100.00	\$240.00	26722
Fee per day for continuously maintaining levy after first day	\$40.00		26726(b)
Not found - Sheriffs fee (non installation)	\$35.00		26738
<b>KEEPER FEES (amount paid to keeper)</b>			
8 hours or less	\$140.00		26726(a)
8-12 hours (keeper <u>not</u> to exceed \$300 in any 24 hour period)	\$300.00		26726(a)
Vehicle Levy ~ not to exceed \$140	\$140.00		26726(a)
Not found ~ fee to keeper (non installation)	\$60.00		26726(c)
<b>LEVY - see Levy Type i.e. eviction real property, etc.</b>			
<b>MILITARY AFFIDAVIT</b>	\$40.00		26742
Additional Fee for Notary when Required	\$10.00		8211
<b>NOT FOUND RETURN</b>	\$35.00		26738
<b>NOTARY</b>	\$10.00		8211
<b>NOTICE - Landlord/Tenant</b>	\$40.00		26721
<b>ORDER FOR APPEARANCE OR EXAMINATION</b>	\$40.00		26721
<b>ORDER TO SHOW CAUSE</b>	\$40.00		26721
<b>PERSONAL PROPERTY LEVY - Writ of Execution or Possession</b>			
Personal Property Levy without Seizure or Turnover	\$40.00		26721
Perform Levy and Seize or Turnover Property	\$100.00		26722
Hiring Private Inventory Service	Actual Cost		26748
Moving and Storage Costs	Actual Cost		26748
Prepare and Post First Sale Notice	\$40.00		26728
Posting Each Additional Sale Notice	\$15.00		26728.1
Serve Sale Notice on Each Debtor (personally or by mail)	\$40.00		26721
Serve Sale Notice on Judgment Creditor or Attorney	No Charge		
Serve Sale Notice on Each Person Listed on Back of Writ	\$40.00		26721
Conduct or Postpone Sale	\$90.00		26730
Prepare and Issue Certificate of Sale - Personal Property	\$15.00		26741
Personal Property, Writ of Possession with Seizure of Prop.	\$100.00	Varies	26722
Vehicle Levy - Large Truck	\$100.00	Varies	26722
<b>POSSESSION, WRIT OF (C&amp;D) ~ see Claim &amp; Delivery</b>			
<b>POSSESSION, WRIT OF (Personal Property) ~ see Personal Prop.</b>			
<b>POSSESSION, WRIT OF (Real Property) ~ see Eviction</b>			
<b>POSTPONING SALE - Real or Personal Property</b>	\$90.00	See PP or RP	26730
<b>PREJUDGMENT CLAIM TO RIGHT TO POSSESSION</b>			
with Copy of Summons and Complaint	\$40.00		26721.1
<b>PROOF OF CORRECTION CERTIFICATION CVC 40616</b>	\$20.00		26746.1
<b>REAL PROPERTY LEVY ~ Execution or Attachment</b>			
Real Property Levy Completed by Process Server	\$40.00	Varies	26721
Real Property Levy Prepared and Recorded by Sheriff	\$40.00		26721
County Recorder recording fee (Varies by County)	Actual Cost	Varies	26748
Demand Letter for Application for Order for Sale of Dwelling	No Charge		26721
Mail Notice of Levy to each Debtor	No Charge		26721